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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Wyatt EXAMINER: T. Dixon
SERIAL NO.: 09/544,508 GROUP ART UNIT: 3639
FILING DATE: April 6, 2000 ATTY. DOCKET NO.: MCO-P-00-001
INVENTION: "A METHOD AND SYSTEM FOR PROVIDING BED AVAILABILITY
INFORMATION ON A COMPUTER NETWORK"

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S REPLY BRIEF TRANSMITTAL

SIR/MADAM:

Appellant submits herewith Appellant's Reply Brief in response to the Examiner's Answer dated October 19, 2007.

Appellant submits that no fee is required for submission of this Reply Brief. However, the Patent Office is hereby authorized to charge any additional fees which may be required, or to credit any overpayment to Deposit Acct. No. 50-0595. A duplicate of this sheet is enclosed for this purpose.

Respectfully submitted,

(Reg. No. 35,018)
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APPELLANT'S REPLY BRIEF

SIR/MADAM:

This Reply Brief is submitted in response to the Examiner's Answer dated October 19, 2007. In the Examiner's Answer, the Examiner raised at least two new points of argument.

I. STATUS OF CLAIMS

Claims 1-10 and 14-19 are pending in this patent application. A copy of the claims was appended as the Appendix to the Appeal Brief. Claims 1-10 and 14-19 were finally rejected by the Examiner in a Final Rejection dated August 3, 2004 and are hereby on appeal.

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

1. Would Claims 1, 2, 4-9, 14-17 and 19 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241)?

2. Would Claims 3, 10 and 18 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241) and further in view of *Bruno et al.* (U.S. Patent No. 6,289,088)?

III. ARGUMENT

A. OHRN FAILS TO TEACH OR SUGGEST A PLURALITY OF HEALTHCARE PROVIDERS

In the Examiner's Answer, the Examiner admits that Appellant's argument that *Stennis et al.* teach only one health care provider rather than a plurality of providers is convincing. However, the Examiner alleges that *Ohrn* is relied upon to teach the plurality of providers and that *Stennis et al.* are relied upon for the teaching of the healthcare provider with vacant rooms. However, Appellant respectfully contends that *Ohrn* also fails to teach or suggest a plurality of providers as required by Appellant's claimed invention.

Contrary to that taught by *Stennis et al.* and/or *Ohrn*, taken singly or in combination, Claims 1 and 14 require inputting bed availability information for a plurality of healthcare providers. *Ohrn* merely teaches "hotels which have vacant rooms." (col. 5, lines 40 and 41). Therefore, nowhere does *Ohrn* teach or suggest a plurality of healthcare providers as required by Claims 1 and 14. Further, the teaching of *Ohrn* does not remedy the deficiencies of *Stennis et al.*

In addition, Appellant submits that the differences between the subject matter of Appellant's invention and that of *Ohrn* and *Stennis et al.* are such that the subject matter as a whole would not have been obvious at the time of Appellant's invention to a person having ordinary skill in the art to which said subject

matter pertains. The hotel room vacancy of *Ohrn* is not the same field of art as the hospital bed availability of *Stennis et al.* Customers frequent hotels for a shortterm place to stay whereas patients check into hospitals to receive medical treatment and often are not discharged and, on occasion will maintain the bed until the patient's death. Therefore, the combination of *Ohrn* and *Stennis et al.* to produce Appellant's claimed invention would not have been obvious to a person of ordinary skill in the art at the time of Appellant's invention.

Ohrn fails to remedy the deficiencies of *Stennis et al.* as applied to Claim 14, as discussed above. Thus, *Ohrn* and *Stennis et al.* do not render obvious Claims 1 and 14, even assuming that they are properly combinable. Therefore, Examiner has not established *prima facie* obviousness as required under 35 U.S.C. §103(a). Accordingly, Appellant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of Claims 1 and 14 in view of *Ohrn* and *Stennis et al.*, taken singly or in combination, for at least the reasons above.

**B. CLAIM 14 REQUIRES INPUTTING INFORMATION REGARDING THE
MEDICAL CONDITION OF THE PATIENT**

In the Examiner's Answer, the Examiner alleges that Claim 14 differs from Claim 1 in that Claim 14 does not include the same level of detail as Claim 1 regarding medical condition of the patient, but merely patient data. However, Claim 14 requires means

for inputting information of the patient into a form via the computer network. Further, Claim 14 requires means for comparing the information of the patient in the database to the bed availability information in the database to obtain each of the plurality of healthcare facilities for treating the patient.

Still further, Claim 14 requires means for determining if a bed in the plurality of beds at each of the plurality of healthcare facilities for treating the patient is available based on the information of the patient in the database. Contrary to the assertions of the Examiner in the Examiner's Answer, Appellant respectfully submits that Claim 14 requires inputting patient medical data. Namely, Claim 14 requires means for comparing the patient information to appropriate healthcare facilities for treating the patient. Appellant's system would not be able to determine appropriate patient treatment facilities without any information regarding the medical condition of the patient.

Therefore, contrary to the Examiner's assertion, Claim 14 requires detail regarding information relating to the medical condition of the patient. Further, the information relating to the medical condition of the patient structurally limits Claim 14. Appellant submits that *Ohrn* in view of *Stanis et al.*, taken singly or in combination, does not teach or suggest the limitation of information relating to the medical condition of the patient. Thus, *Ohrn* and *Stennis et al.*, taken singly or in combination do

not render obvious Claim 14.

In view of the foregoing, the Examiner has not established a *prima facie* case of obviousness as required under 35 U.S.C. §103(a). Accordingly, Appellant respectfully requests the withdrawal of the rejection under 35 U.S.C. §103(a) of Claim 14 as unpatentable over *Ohrn* in view of *Stennis et al.*, for at least the reasons above.

In view of the foregoing remarks, Appellant respectfully submits that all of the claims in the application are in allowable form and requests the Board to reverse the rejections of the Examiner.

Respectfully submitted,

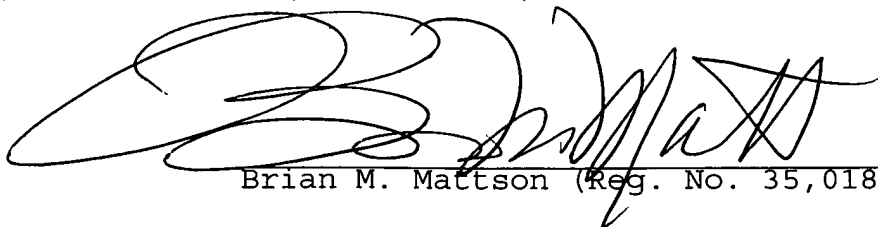


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CERTIFICATE OF MAILING

I hereby certify that this **REPLY BRIEF** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 17, 2007.



Brian M. Mattson (Reg. No. 35,018)